

AMENDED IN SENATE DECEMBER 15, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 349

Introduced by Assembly Member Silva

February 19, 2009

An act to ~~add Section 13337.1 to~~ amend Section 17581 of, and to add Section 13337.1 to, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 349, as amended, Silva. State mandates.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State Mandates or the Legislature. Existing law provides *that* a local agency or school district is not required to implement or give effect to any statute or executive order, or portion thereof, that imposes a mandate during any fiscal year and for the period immediately following that fiscal year ~~if specified conditions are met with regard to reimbursement not being provided for that mandate~~ *the Legislature specifically identifies the statute or executive order, or the commission's test claim number, in the Budget Act, and that suspended mandate is included both within the schedule of reimbursable mandates shown in the Budget Act and is specifically identified in the language of a*

provision of the item providing the appropriation for mandate reimbursements.

~~Existing law requires the Governor to submit the budget required by the California Constitution to the Legislature within the first 10 days of the regular session of the Legislature and requires the budget to contain a complete plan and itemized statement of all proposed expenditures of the state.~~

This bill would require *the Director of Finance*, on and after January 1, 2012, if the budget submitted by the Governor to the Legislature proposes a suspended reimbursable state mandate, as defined, ~~and it is the 3rd consecutive year of a Governor's Budget in which that reimbursable state mandate is proposed to be suspended, the Director of Finance would be required to provide to the Legislature all proposed statutory changes necessary to repeal the suspended reimbursable state mandate.~~

This bill would also require that a provision in the Budget Act that identifies a mandate for the fiscal year as one for which reimbursement is not provided to identify specifically, to the extent practicable, each affected law. The bill would provide that if a section of law is not specifically identified in the Budget Act, the suspension of that mandate would not be affected if the other requirements are met with regard to specifically identifying the mandate.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION. 1.~~

2 ~~SECTION 1.~~ Section 13337.1 is added to the Government Code,
3 to read:

4 13337.1. (a) For purposes of this section, “suspended
5 reimbursable state mandate” means a statute or executive order
6 that meets both of the following criteria:

7 (1) The statute or executive order, or portion thereof, has been
8 determined by the Legislature, the Commission on State Mandates,
9 or any court to mandate a new program or higher level of service
10 requiring reimbursement of local agencies, including, but not
11 limited to, school districts, pursuant to Section 6 of Article XIII B
12 of the California Constitution.

(2) (A) The statute or executive order, or portion thereof, or the commission's test claim number, has been specifically identified as being one for which reimbursement is not provided for that fiscal year in the budget that is required by the California Constitution to be submitted by the Governor to the Legislature, in accordance with this article.

(B) For purposes of this paragraph, a mandate shall be considered to have been specifically identified only if it has been included within the schedule of reimbursable mandates shown in the Governor's Budget and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) On and after January 1, 2012, if the budget required by the California Constitution to be submitted by the Governor at each regular session of the Legislature, pursuant to this article, proposes a suspended reimbursable state ~~mandate and it is the third consecutive year of a Governor's Budget in which that~~ ~~reimbursable state mandate is proposed to be suspended, the~~ *mandate*, the Director of Finance shall provide to the Legislature, in accordance with Section 13308, all proposed statutory changes necessary to repeal the suspended reimbursable state mandate.

SEC. 2. Section 17581 of the Government Code is amended to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) (A) The statute or executive order, or portion thereof, or the commission's test claim number, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown

1 in the Budget Act and it is specifically identified in the language
2 of a provision of the item providing the appropriation for mandate
3 reimbursements.

4 *(B) When identifying a mandate in the Budget Act for the fiscal*
5 *year as being one for which reimbursement is not provided for*
6 *that fiscal year, the language of the provision that specifies that*
7 *reimbursement is not provided shall specifically identify, to the*
8 *extent practicable, each affected section of law. If a section of law*
9 *is not so specifically identified in the Budget Act, the suspension*
10 *of that mandate shall not be affected if the requirements of*
11 *subparagraph (A) are otherwise met.*

12 (b) Within 30 days after enactment of the Budget Act, the
13 Department of Finance shall notify local agencies of any statute
14 or executive order, or portion thereof, for which operation of the
15 mandate is suspended because reimbursement is not provided for
16 that fiscal year pursuant to this section and Section 6 of Article
17 XIII B of the California Constitution.

18 (c) Notwithstanding any other provision of law, if a local agency
19 elects to implement or give effect to a statute or executive order
20 described in subdivision (a), the local agency may assess fees to
21 persons or entities which benefit from the statute or executive
22 order. Any fee assessed pursuant to this subdivision shall not
23 exceed the costs reasonably borne by the local agency.

24 ~~(d) This section shall not apply to any state-mandated local~~
25 ~~program for the trial courts, as specified in Section 77203.~~

26 (e)

27 (d) This section shall not apply to any state-mandated local
28 program for which the reimbursement funding counts toward the
29 minimum General Fund requirements of Section 8 of Article XVI
30 of the Constitution.